

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:13-cv-18-RJC**

CHRISTOPHER M. COWAN,)
)
 Petitioner,)
)
 v.)
)
)
BRAD PERRITT,)
Superintendent, Lumberton)
Correctional Institution,)
)
 Respondent.)
_____)

ORDER

THIS MATTER is before the Court on Petitioner’s motion to reconsider the order dismissing his petition for habeas corpus, filed pursuant to 28 U.S.C. § 2254.¹ In his motion to reconsider, Petitioner contends—as he did in his Section 2254 petition, see (Doc. No. 1 at 21)—that the Court should consider the merits of his § 2254 petition because the Iredell County District Attorney withheld critical evidence from the defense prior to his trial. As the Court found in the order of dismissal, Petitioner clearly appreciates that his § 2254 petition is untimely under the provisions of 28 U.S.C. § 2244(d), thus the Court finds that no warning need issue to Petitioner as required, in certain instances, by Hill v. Braxton, 277 F.3d 701, 706 (4th Cir. 2002).

In the present motion, Petitioner still provides no explanation as to why he could not have raised the claims he presented in his § 2254 petition within one year of the date his State conviction became final.² Petitioner again demonstrates that he knew, or should have known,

¹ The findings and conclusions of law in the Court’s order of dismissal are fully incorporated herein. (Doc. No. 3).

² As the Court found in the order of dismissal, Petitioner’s conviction became final on or about November 27, 2009, which is 90-days after the Supreme Court of North Carolina denied his petition to review the superior court’s denial

about the substance of each of his claims for relief prior to, or during the testimony presented during his trial. The Court finds that Petitioner's motion to reconsider should be denied for the foregoing reasons.

IT IS, THEREFORE, ORDERED that Petitioner's motion to reconsider is **DENIED**.
(Doc. No. 3).

IT IS FURTHER ORDERED that pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases, the Court declines to issue a certificate of appealability as Petitioner has not made a substantial showing of a denial of a constitutional right. 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong); Slack v. McDaniel, 529 U.S. 474, 484 (2000) (holding that when relief is denied on procedural grounds, a petitioner must establish both that the correctness of the dispositive procedural ruling is debatable, and that the petition states a debatably valid claim of the denial of a constitutional right).

Signed: June 6, 2013



Robert J. Conrad, Jr.
United States District Judge



of his motion for appropriate relief. Petitioner did not file a petition for a writ of certiorari with the Supreme Court of the United States, and his Section 2254 petition was filed in this Court, at the earliest, on January 10, 2013. (Doc. No. 3 at 1, 3); State v. Cowan, 682 S.E.2d 705 (N.C. Aug. 27, 2009) (unpublished).